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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: U.S. Department of Labor--Interagency Agreement
Between Employment and Training Administration
and Bureau of International Labor Affairs

File: B-245541

Date: May 21, 1992

DIGEST

1. The Department of Labor, Employment and Training Administration, appropriation for "Training and Employment Services" was available to fund international research projects that could assist the Secretary of Labor in finding solutions to the nation's employment and training problems. The Job Training Partnership Act requires the Secretary of Labor to establish a comprehensive program of employment and training research to help find solutions to the nation's employment and training problems. 29 U.S.C. § 1732.

2. The Department of Labor, Employment and Training Administration, appropriation for "Training and Employment Services" is not available to fund a project to provide developing countries with access to instructional training materials. The Department's appropriation is only available to pay for international research projects to the extent the projects relate to the Department's mission under the Job Training Partnership Act to find solutions to the Nation's employment and training problems.

DECISION

This responds to a request by the Inspector General and the Assistant Secretary for Administration and Management of the United States Department of Labor (Department). They ask whether the Department improperly used its Employment and Training Administration (ETA) "Training and Employment Services" appropriation to fund three projects carried out by the United Nations' International Labor Organization. For the reasons indicated below, we conclude the appropriation was available to fund two of the projects but not the third.

BACKGROUND

At the June 1988 International Labor Conference in Geneva, Switzerland, the Secretary of Labor pledged \$500,000 to the

United Nations' International Labor Organization (ILO)¹ for research involving job training, employment promotion, and working conditions. According to Department officials, the Department's Bureau of International Labor Affairs (ILAB)² coordinates all international labor activities within the Department. This includes administering the technical aspects of the Department's participation in the ILO. Therefore, Department officials decided that, although funding would come from ETA, the ILAB was best suited to administer the projects in view of its on-going relationship with the ILO.

ETA transferred \$500,000 from its "Training and Employment Services" appropriation to the ILAB under Inter-Agency Agreement No. 99-9-3368-75-002-03, signed on November 8, 1988. The purpose of the agreement was "to provide the Department of Labor with comparative international experience related to the Job Training and Partnership Act (JTPA) and to enhance the status of the U.S. Government in the ILO." Under the agreement, the ILAB entered into grant agreements with the ILO for the following three projects.

Project 1 (Grant Number E-9-K-9-0040): Research Project on Drug and Alcohol Abuse Prevention and Assistance Programs at the Workplace

The Department provided about \$225,000 for the ILO to conduct an international comparative analysis of drug and alcohol abuse prevention and assistance programs in the workplace. The ILO evaluated drug and alcohol programs in Canada, the Federal Republic of Germany, Sweden, the United Kingdom, and the United States. The objective was "to improve the capability and knowledge of governments, employers' and workers' organizations and managers of

¹According to the Department, "[t]he ILO, a specialized agency of the United Nations, exists to promote voluntary cooperation of Nations to improve labor conditions and raise living standards, thereby improving prospects of peace by fostering economic and social stability throughout the world."

²The Bureau of International Labor Affairs "[i]ntegrates all international labor programs and foreign economic policy within the Department (of Labor); gives Departmental guidance to the U.S. participation in international organizations concerned with labor and employment and training problems; and provides for labor and employment and training technical services to other Government and international agencies." See Budget of the United States Government, 1989--Appendix, I-P18.

enterprises to formulate effective policies and to develop, design and manage drug and alcohol related prevention and assistance programs." Under the agreement, the ILO was required to present the Department with a comprehensive report discussing "the dimensions of the problem, the various approaches tried at national and enterprise levels to prevent drug and alcohol abuse among workers and to assist those with such problems, the barriers (including legal ones) to the development and implementation of workplace programs and strategies to overcome them and elements of effective programs and the role of labor and management."

Project 2 (Grant No. E-9-K-9-0042): The Potential for Training Disadvantaged Youth Using New Training Technologies

The Department provided about \$225,000 for a "survey and analysis of recent training programs in Latin America, in both industrialized and developing countries, for disadvantaged youth, especially from the perspective of new instructional technologies and learning theories." Under the agreement, the ILO was required to develop sample training materials designed for disadvantaged youth in Latin America and to present the Department with, among other things, "a report on the implications of new and innovative instructional technologies for training young people with poor formal education."

Project #3 (Grant No. E-9-K-9-0043): Development of a Focal Point for the Identification and Distribution of Learning Materials

The Department provided \$50,000 to the ILO to create an international "focal point" to identify and distribute training materials, primarily American and European in origin, to developing countries. Under the agreement, the ILO was required to establish an operational link, at ILO's Center for Advanced Vocational Training, with existing data bases and to train key personnel from developing countries in how to access materials on the databases.

DISCUSSION

The DOL/ETA's Appropriation Act for fiscal year 1988 under the heading "Training and Employment Services," provides:

"For expenses necessary to carry into effect the Job Training Partnership Act . . . \$3,658,651,000 plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989"
(Emphasis added.)

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Pub. L. No. 100-202, 101 Stat. 1329-256 (1987).

Under 31 U.S.C. § 1301(a) (1988), agencies may use appropriated funds only for authorized purposes. The determination that a particular expense is necessary for an authorized purpose is, in the first instance, a matter of agency discretion. B-242391, Sept. 27, 1991, 70 Comp. Gen. _____. Accordingly, when we consider whether an expense is necessary, we determine only whether it falls within the agency's legitimate range of discretion, or whether its relationship to an authorized purpose is so attenuated as to take it beyond that range. Id.

Here, Congress provided an appropriation for the Department of Labor to carry out the Job Training Partnership Act. The Job Training Partnership Act requires the Secretary of Labor to establish a "comprehensive program of employment and training research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems." 29 U.S.C. § 1732(a) (1988). The Act also requires the Secretary to establish "a program of experimental, developmental, and demonstration projects, through grants or contracts, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems." 29 U.S.C. § 1732(b).

Department officials believe that 29 U.S.C. § 1732 authorized the projects as part of a comprehensive research program. They believe that the knowledge, expertise, and experience of other countries can help the United States solve its own employment problems. As such, the Department considers comparative international research a legitimate component of a research program carried out under the JTPA.

Section 1732 makes clear that Congress intended for the Secretary to carry out an extensive program to "assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it." 29 U.S.C. § 1732(a). The program may include, but is not limited to, studies involving such broad topics as "policies and programs to reduce unemployment," "productivity of labor," and "methods of improving the wages and employment opportunities of low-skilled and disadvantaged workers." Id. Thus, it is within the legitimate range of the Secretary's discretion to include comparative international research projects in a comprehensive program of employment and training research.

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Nevertheless, the Department's "Training and Employment Services" appropriation is only available for such projects to the extent they relate to the purpose of the Job Training Partnership Act. Cf. B-229732, December 22, 1988 (HUD funds are available for international trade program only to the extent it relates to HUD's mission and programs). The Congressionally declared purpose of the Act is to "establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment," 29 U.S.C. § 1501.

The information resulting from Project 1, which involved research and analysis of drug and alcohol abuse prevention and assistance programs in various countries, could assist the Department in establishing similar programs in the United States. Likewise, the information resulting from Project 2, which involved research and analysis of training programs for disadvantaged youth in Latin America, could aid the Department in finding solutions to the barriers to employment facing disadvantaged youth in this country. Thus, we think it was in the Secretary's legitimate range of discretion to decide that Projects 1 and 2 would help the Department find solutions to the Nation's employment and training problems. Accordingly, the Department's "Training and Employment Services" appropriation was available for those projects.

The primary purpose of Project 3, however, was to provide developing countries with access to American and European training materials by establishing a data base, or "focal point," at the ILO. As the ILO's proposal for Project 3 indicates, the United States had access to these training materials on existing data bases. Clearly, therefore, the project was intended to benefit developing countries and not the United States.

Had the intended benefit to other countries been a by-product of an authorized research or demonstration project to help find solutions to employment problems in this country, as was the case with Projects 1 and 2, the Department's appropriation would have been available. Here, however, the primary purpose of the project was to provide other countries with access to training materials readily available in the United States. Thus, the project did not relate to the agency's mission in carrying out its

responsibilities under the JTPA. Accordingly, the Department improperly charged its "Training and Employment Services" appropriation with the cost of the project.

CONCLUSION

When an agency's appropriation is not available for a designated purpose, and the agency has no other funds available for that purpose, any officer of the agency who authorizes an obligation or expenditure of agency funds for that purpose violates the Antideficiency Act, 31 U.S.C. § 1341(a). If no other funds were available for Project 3, the obligation could be viewed as either in excess of the amount (zero) available for that purpose or as in advance of appropriations made for that purpose. In either case, the obligation violated the Antideficiency Act, and appropriate action should be taken in accordance with OMB Circular A-34, 60 Comp. Gen. 440 (1981); B-229732, Dec. 22, 1988.

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for Comptroller General
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